

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL BUXBAUM,

Plaintiff,

-against-

STEWART BUXBAUM and GERI
BUXBAUM,

Defendants.

25-cv-457 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

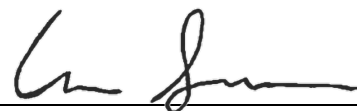
This Court's jurisdiction over this suit depends on diversity of citizenship between the parties. *See* Dkt. 1 at 3. The complaint alleges that plaintiff Michael Buxbaum is a citizen of Florida and provides an address in support of that claim. *See id.* at 1, 3. Defendants Stewart and Geri Buxbaum say that the plaintiff (their son) is actually a citizen of New York. *See* Dkts. 31, 32. Because defendants are also citizens of New York, there's no basis for diversity jurisdiction if defendants are correct. Defendants support their assertion with, among other things, a declaration stating that the address plaintiff provided in the complaint is a strip mall with no residential units. *See* Dkt. 31 at 4.

Given defendants' showing, plaintiff shall file sufficient evidence on the docket demonstrating that he is a citizen of Florida by **Thursday, April 10, 2025**. For purposes of diversity jurisdiction, a party's citizenship depends on their domicile. *Linardos v. Fortuna*, 157 F.3d 945, 948 (2d Cir. 1998). Domicile is "the place where a person has his true fixed home and principal establishment, and to which, whenever he is absent, he has the intention of returning." *Van Buskirk v. United Grp. of Companies, Inc.*, 935 F.3d 49, 53 (2d Cir. 2019) (internal citations omitted). A person can have only one domicile at any moment in time, though a person's domicile can change. *Id.* A party alleging that they have changed their domicile has the burden of proving both that they intend to give up their old domicile and take up the new one and that they have an actual residence in the new locality. *Palazzo ex rel. Delmage v. Corio*, 232 F.3d 38, 42 (2d Cir. 2000). This change must be established by clear and convincing evidence. *Id.*

SO ORDERED.

Dated: March 27, 2025

New York, New York



ARUN SUBRAMANIAN
United States District Judge